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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,291	10/16/2003	Michael John Branson	ROC920030263US1	8981
7590 IBM Corporation Intellectual Property Law Dept. 917 3605 Highway 52 North Rochester, MN 55901-7829			EXAMINER SHIH, HAOSHIAN	
			ART UNIT 2173	PAPER NUMBER
			MAIL DATE 08/02/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,291

Applicant(s)

BRANSON ET AL.

Examiner

HAOSHIAN SHIH

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-6 and 8-20 are pending in this application and have been examined in response to application RCE filed on 05/23/2011.
2. Claim 7 is canceled by the applicant.

Response to Arguments

3. Applicant's remarks filed 05/23/2011 have been fully considered but they are not persuasive.
4. The affidavit filed on 05/23/2011 under 37 CFR 1.131 has been considered but is ineffective to overcome the **Gegner et al. ("Gegner", WO 2003/104966 A3)** reference.
5. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Gegner reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). In order to show conception of the invention prior to the effective date of the

reference, due diligence from prior to the reference date to the filing date of the application or actual reduction to practice must be shown.

6. The evidence submitted is insufficient to establish applicant's alleged actual reduction to practice of the invention in this country or a NAFTA or WTO member country after the effective date of the Gegner reference. The affidavit does not adequately: a) "map" the claim limitations to the exhibits; b) explain how the claim limitations are shown in the exhibits; and c) proof that the invention actually existed and worked for its intended purpose, the 1.131 affidavit does not antedate the cited reference because the Applicant has not sufficiently proven that the claimed invention was reduced to practice before the relevant date of the cited reference. The examiner suggests the applicant to map each of the claim limitations to the relevant pages in the Exhibits with explanations of how the relevant pages are used to establish a reduction to practice. For example: claim 1, limitation A (pg. N of the exhibits, explanation of pg. N); and provide concrete data showing the invention worked as intended.

7. The Applicant further indicated that the invention was completed and was commercially used prior to June 4, 2003, as indicated by the redacted date on page 8 of Exhibit (applicant remark, pg.2). The applicant is required to show that the invention was not commercially used at least one year prior the application filing date to avoid the 102b statutory bar rejection.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1-6 and 8-20 are rejected under 35 U.S.C. 102(e) as being unpatentable by Gegner et al. ("Gegner", WO 2003/104966 A3).**

10. As to **INDEPENDENT** claim 1, Gegner discloses selecting a subset of a first plurality of data objects based on a respective importance of each of the first plurality of respective data objects (pg3, line 12-21), wherein the first plurality of data objects are displayed in a main view; and copying the subset to a peek view (fig 5; main view with the plurality of data objects are on the right, and a peek view with the subset are on the left. pg8, line 11-13; displaying of the objects on a different display screen); and replacing the first plurality of data objects in the main view with a second plurality of data objects, wherein the second plurality of data objects are different from the first plurality of data objects (pg.8, lines 7-13).

11. As to **INDEPENDENT** claim 6, Gegner discloses means for receiving a first plurality of data objects and a plurality of respective importance tags (pg3, line 12-21);

and means for selecting a subset of the first plurality of data objects based on the importance tags (pg3, line 27-28; less important data objects are not selected) and based on a peek view associated with a pull command (fig 5; pg8, line 11-13; a subset of the objects are selected to display on a different screen); means for copying the subset from a main view to the peek view (fig 5; main view with the plurality of data objects are on the right, and a peek view with the subset are on the left. pg8, line 11-13; displaying of the objects on a different display screen); and means for replacing the first plurality of data objects in the main view with a second plurality of data objects, wherein the second plurality of data objects are different from the first plurality of data objects (pg.8, lines 7-13).

12. As to **INDEPENDENT** claim 11, Gegner discloses selecting a subset of a first plurality of data objects in response to a pull command from a peek view (pg8, line 11-13; a subset of the objects are selected to display on a different screen) wherein the first plurality of data objects are displayed in a main view; and copying the subset to a peek view (fig 5; main view with the plurality of data objects are on the right, and a peek view with the subset are on the left); replacing the first plurality of data objects in the main view with a second plurality of data objects, wherein the second plurality of data objects are different from the first plurality of data objects (pg.8, lines 7-11).

13. As to **INDEPENDENT** claim 16, Gegner discloses selecting a subset of a first plurality of data objects in response to a pull command from a peek view (pg8, line 11-

13; a subset of the objects are selected to display on a different screen), wherein the first plurality of data objects are displayed in a main view, copying the subset to a peek view (fig 5; main view with the plurality of data objects are on the right, and a peek view with the subset are on the left), replacing the first plurality of data objects in the main view with a second plurality of data objects, wherein the second plurality of data objects are different from the first plurality of objects (pg.8, lines 7-11)receiving an update to the first plurality of data objects, and modifying the subset in the peek view based on the update (pg4, line 15-21; pg8, line 11-14 as a different peek view are selected for displaying in an enlarged form, the main view updates to reflect the changes).

14. As to claim 2, Gegner discloses the selecting is in response to a pull command at the peek view (fig 5; pg8, line 11-13; a subset of the objects are copied to display on a different screen).

15. As to claims 3 and 8, Gegner discloses selecting the subset based on a size of the peek view (fig 3; pg3, line 27-29; objects are added/eliminated based on the size of the peek window).

16. As to claim 4, Gegner discloses receiving an update to the plurality of data objects; and modifying the subset in the peek view based on the update(pg 3, line 7-11;

the displayed data objects reflects the updates on the display screen in the field of patient monitoring).

17. As to claim 5, Gegner discloses re-selecting the subset based on a change to the importance, wherein the receiving further receives the change to the importance (pg3, line 18-21).

18. As to claims 9 and 19, Gegner discloses means for copying the subset from the peek view to the main view in response to a push command associated with the peek view(pg4, line 15-17; pg8, line 11-13; objects from the peek view are imported to a different screen to display an enlarged form).

19. As to claims 10 Gegner discloses receiving an update to the first plurality of data objects; and modifying the subset in the peek view based on the update(pg 3, line 7-11; the displayed data objects reflects the updates on the display screen in the field of patient monitoring).

20. As to claim 12, Gegner discloses selecting the subset based on a plurality of importance tags associated with the respective first plurality of respective data objects, wherein the respective importance tags specify a ranking of the first plurality of respective data objects (pg3, line 18-22).

21. Claims 13, 18 are same in scope to claims 3 and 6, and are therefore rejected under same rationale.

22. As to claims 14 and 15 Gegner discloses receiving an update to the plurality of data objects; and modifying the first subset in the peek view based on the update (pg 3, line 7-11; the displayed data objects reflects the updates on the display screen in the field of patient monitoring).

23. As to claim 17, Gegner discloses selecting the subset based on a plurality of importance tags associated with the respective plurality of respective data objects, wherein the respective importance tags specify a ranking of the plurality of respective data objects (pg3, line 18-22).

24. As to claim 20, Gegner discloses sorting data in the subset in the peek view based on a sort rule associated with the data (pg3, line 18-21; the ordering of the hierarchically combined objects represents a form of sorting rule).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAOSHIAN SHIH whose telephone number is (571)270-1257. The examiner can normally be reached on m-f 0730-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kieu Vu can be reached on (571) 272-4057. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Haoshian Shih/
Patent Examiner